



U.S. Department
of Transportation
**Federal Aviation
Administration**

800 Independence Av. S.W.
Washington, D.C. 20591

AUG 10 2012

Mr. Edwin Griffioen
Managing Director
Civil Aviation Authority of the Netherlands
Saturnusstraat 50
Hoofddorp
Postbus 75
2130 AN Hoofddorp

Dear Mr. Griffioen:

I would like to thank you again for the opportunity to meet with you and the representatives of the Kingdom of the Netherlands on August 3, 2012, to discuss issues concerning the safety of civil aviation between the Federal Aviation Administration (FAA) of the United States and the Civil Aviation Authority of the Netherlands (CAA-NL).

The FAA found the recent discussions to be very beneficial in gaining an understanding of the current system of aviation safety oversight being provided by the Netherlands.

Enclosed are two signed copies of the Record of Discussions (ROD) from our meeting of August 3, 2012. The text of the ROD having been coordinated between the representatives of the United States and the Kingdom of the Netherlands. There is one additional change to the second to the last paragraph, further clarifying the FAA text added during your previous edit. Please keep one copy for your records and return a copy to my office after review and signature.

As discussed previously and captured within the ROD, the FAA continues to consider the CAA-NL to lack sufficient qualified inspectors and thus does not appear to meet compliance with Annex 6. The Annex appendices contain permissive language that NL-CAA has chosen to disregard as noted by Mr. Mickler. An authority may disregard the permissive requirements as long as an equivalent level of safety is assured. As mentioned during our discussion, the critical element of qualified technical personnel remains closely related to several of the other seven critical elements of an IASA safety oversight assessment. In particular, the difference between oversight functions and certification functions with regard to the need for inspector type ratings. Although the scope of this particular discussion was limited to inspector qualifications, FAA is not confident at this time that the CAA-NL would be successful in a full assessment of all eight critical elements if an assessment were conducted today.

We look forward to receiving the documented European Aviation Safety Agency (EASA) certification and oversight procedures acceptable to all member States. If the issue of certification processes remains unaddressed within a reasonable period of time, the FAA will be obligated to conduct an assessment of the CAA-NL under the International Aviation Safety Assessment program.

I would greatly appreciate that the issues described in the record of discussion related to compliance with International Civil Aviation Organization Annex 6, Part 1, be explained in future correspondence from the NL-CAA. I would like to recommend that a review of the IASA checklist be conducted to better understand the FAA's position with regard to certification and oversight of air carriers in addition to those checklists where inspector training and designee oversight are concerned.

I look forward to the forthcoming documentation regarding the uniform safety oversight system being used by the CAA-NL and to our discussions at the annual EASA/FAA meeting in October.

Please contact me if I can be of any assistance.

Sincerely,

John Barbagallo
Manager, International Programs and Policy Division

Enclosure

9 August 2012

RECORD OF DISCUSSIONS

On August 3, 2012, representatives of the Government of the United States of America met with representatives of the Government of the Kingdom of the Netherlands and the European Union in Hoofddorp, Netherlands, to discuss issues concerning the safety of civil aviation between the United States and the Netherlands. Officials of the Federal Aviation Administration (FAA) (as provided in Annex I) represented the United States. Officials of the Netherlands Civil Aviation Authority (CAA-NL) represented the Netherlands and officials of the European Aviation Safety Agency (EASA) represented the European Union (as provided in Annex II).

The U.S. Government (USG) requested these discussions with the Government of Kingdom of the Netherlands (GON) to receive information from the CAA-NL on its aviation safety oversight system. The FAA discussed its concerns with the observance by the Netherlands of the minimum safety standards of the Convention on International Civil Aviation (the Chicago Convention) and its Annexes and, in particular, the CAA-NL's ability to ensure the compliance of Dutch air carriers with those standards. As a signatory to the Chicago Convention, the Netherlands is obligated to establish a civil aviation authority that (among other obligations) employs or contracts with appropriately qualified technical personnel necessary to license and inspect its international air carriers. The U.S.-EU Bilateral Aviation Agreement and U.S. law require compliance with the standards contained in the Chicago Convention as a condition of foreign air carrier operations into the United States.

Mr. Griffioen, Director of CAA-NL welcomes everybody and introduces the meeting. He announces that he is looking forward to an open discussion. An agenda has been forwarded, but the meeting will be free format. He stated that his understanding of the scope of the meeting is to discuss operational issues and in particular the type rating of flight inspectors, training of flight inspectors and resources of the CAA.

The U.S. side emphasized that the discussions did not constitute an International Aviation Safety Assessment (IASA) audit, but rather were aimed at gaining information that might indicate whether a fuller IASA assessment of the CAA-NL might be appropriate. The U.S. side further explained what consequences might result from a formal IASA audit.

The FAA, the CAA-NL, and EASA discussed the following:

Qualified Technical Personnel, including type ratings, training, and resources of flight inspectors.

The U.S. side said that it asked for the discussions because of concerns about whether the CAA-NL had adequate numbers of inspector personnel with adequate technical qualifications. This is one of the eight critical elements of an IASA assessment. The U.S. side said that concerns had been initially raised during recent visits to the Dutch Caribbean islands. It expressed concern, for example, about the procedures followed when KLM introduces new aircraft type. The U.S. side questioned how the CAA-NL could certify pilots, maintenance personnel, and

procedures prior to beginning revenue service without having fully qualified personnel on staff.

The Dutch disputed the US side assumption that certification activities are performed by not qualified personnel.

The Dutch side said it regarded the recent (2002) addition of the B777 as an Air Operator Certificate (AOC) change. The company's first pilots were trained by the manufacturer in its training facility, which had been approved by the UK-CAA (both UK-CAA and CAA-NL members of the JAA (predecessor of EASA) with 'mutual recognition' regarding FCL). These 'initial' group of pilots had to complete their skill test with base training and flight training. Zero flight time could be achieved gaining experience with another AOC-holder with the same aircraft, for example, Air France to get their required 90 days of experience. The CAA-NL's operations inspector attended the B777 ground school at Boeing and acted as observer during the STD training, but did not get a type rating. The Dutch indicated, based on applicable regulation and its supportive documents, a type rating for all operated aircraft types is not a requirement as long as a flight inspector is type rated on a similar type of aircraft (please refer to earlier provided documents).

The Dutch side said it did not write all new directives, but rather used the manufacturer's customized (especially prepared for the operator involved) documents. The FAA approved MMEL is used as a basis for the MEL. Within the boundaries of the MMEL the operator customizes the MEL towards its operational and technical needs (additional EU/ JAA requirements and /or generic requirements), with CAA-NL's approval. KLM is also qualified for RSVM, ETOPS, and other approvals. CAA-NL often uses FAA-developed directives.

The CAA-NL approves takeoff and landing minima and verifies that the carrier meets those requirements. Maintenance procedures are approved in parallel with the MMEL. A team of non flight and flight inspectors perform certification activities. Certification documents as mentioned above are reviewed by authorized flight inspectors, familiar with the type of operation. The flight inspectors are authorized by the CAA-NL to do the job. If a flight inspector needs more qualifications for a particular task, he obtains the additional training as necessary. For example when a new type with "new technology", such as the B787, will come into service.

The U.S. side asked how the Dutch type rating was derived from the UK approval.

The Dutch side said that it was based on an UK-CAA (member of the JAA (predecessor of EASA) approval of the training (TRTO, type rating course and STD) and a CAA-UK approved examiner. The CAA-NL issued its approval (Dutch type rating) on the basis of the CAA-UK certification (mutual recognition).

The U.S. side noted that the B777 inspector apparently decided what his own qualifications should be, in lieu of obtaining a type rating in the aircraft. It said that it

believes that the procedures described by the Dutch side, which were based only on practice, should be put in writing and standardized among the EU CAAs. A procedure of this kind must be memorialized so that it is replicable should personnel change over time.

The Dutch side reacted, that the initiation to add additional knowledge, whether or not a full type rating for a flight inspector is a decision of the head of department. The decision is based on applicable regulation and its supporting documents (JAA JIPs and ICAO doc 8335) and consultation held between the head of department and the flight inspector.

The EASA delegation said Europe would eventually have only one uniform system in place for the approval of TRTO's, which would make this process easy. Now EASA and its member states are in transition as far as binding rules are concerned. The current arrangement is based on the JAA rules and mutual acceptance is invoked through the Cyprus Arrangement and Working Arrangements between CAAs and EASA. Mutual acceptance will be legally binding in the future with the implementation of Implementing Rules. EASA has standardization oversight over the CAA functions, as specified in EASA regulations. The Implementing Rules have already been developed under a transparent consultative system including the opportunity for the FAA to comment. The same general system will also apply to aerodromes and air traffic management. Following the possibility of a supplementary report from EASA, the European Commission may suspend mutual recognition of certificates issued by a Member State and has the power to initiate infringement procedures which may result in hefty penalties if a Member State continues to be noncompliant.

The EASA delegation gave a presentation on the regulatory and standardization transition process. A brief explanation of the subsidiarity principle (centralization only where necessary) was provided. The European Union acts mainly as the legislator, while Member States apply Union law under Union control. Member States are responsible to implement regulations for areas that they are given legal competence by the Basic Regulation. The national CAA's implement the regulations for most areas except DOA, product certification, pan European organization approvals and non EU organization approvals. EASA has a standardisation function to monitor the system and flag deficiencies and bring them to successful resolution. Since June 2009 when the Joint Aviation Authorities (JAA) was disbanded, EASA has been filling the gap in ensuring adequate oversight. For the most part in relation to OPS and FCL, the JAA regulations are implemented in national law. The exception is the European Regulation on commercial air transportation with aeroplanes (EU-OPS), which has been issued as a directly binding European regulation, but not as an Implementing Rule under the Basic Regulation (216/2008). This has historical reasons, because the regulatory process for EU-OPS was launched before the Basic Regulation process had started and it was decided not to give it up, in order not to lose the political momentum. Now it is in force, but soon it will be replaced by Implementing Rules. For airworthiness EU regulations are currently binding and for all other areas new Implementing Rules will be soon.

The EASA delegation further explained that the working methods for the standardization process were originally based on existing Joint Implementation

Procedures, but were aligned to the extent possible with the methodology of Commission Regulation 736/2008.

The EASA delegation said that one of the objectives of the basic regulation is to assist a Member State to fulfill their obligations under the Chicago Convention. Therefore there are mechanisms in place to align the whole system with ICAO Standards and Recommended Practices (SARPs). The regulations are written with SARPs in mind, and EASA has an obligation to ensure that member states comply. It is identifying differences between EU regulations and ICAO SARPs in order to assist member states to notify them to ICAO.

The U.S. side noted that Annex 6 requires a system to ensure that standards continue to be met after the initial certification through a surveillance system. CAAs must have adequate staff and resources, and inspectors must have adequate training in technical subjects to carry out their responsibilities. The inspector must not only have a rating, but must have additional experience and training sufficient to be able to oversee changes to an AOC or approve special authorizations.

The Dutch side said the ICAO rule does not require a type rating, but it does require technical qualification to do the job (based on the similar type of operation). The CAA-NL's task is to ensure that the personnel do have that qualification.

The U.S. side asked how the CAA can issue a type rating to KLM pilots when its own personnel do not have them.

The Dutch side explained the system of typerating examination. CAA-NL authorizes Typerating examiners (TREs) (per type) to execute typerating exams on behalf of the Government. Their 'standard' is tested in a 3 year cycle by senior TREs, which can only do that within their own company. The CAA-NL accepts senior TREs. Two flight inspectors, together with a few TREs which are member of the 'standardization commission MPA', perform surveillance, give 'refresher seminars' and test the 'standard' of the senior TREs in a 3 year cycle.

The Dutch side explained that in the specific case being discussed, it identified and qualified flight examiners, at the carrier, since they must have at least one in the country. The CAA-NL inspectors did not evaluate the technical aspects of the carrier's flight examiners within the aircraft type as this was already done by the UK CAA as explained above. However, they evaluated the examiner's procedural, nontechnical capabilities. The CAA can delegate authority to senior TREs who do have the necessary type ratings. These examiners are carefully selected by the Government. The flight inspectors of CAA-NL continue to oversee the senior personnel, but not necessarily with the formal type rating. When the senior TREs perform an examination, they act on behalf of the Authority.

When a new carrier started with B737 aircraft the CAA-NL depended on an authorized inspector considering himself technically qualified to oversee the work. The inspector formerly had type ratings and qualifications in the B757 and B767, a similar type of operation. The CAA-NL relies on the technical qualifications and

quality management system of the carrier. In this context the CAA-NL stated that every Dutch AOC holder is required to have an adequate Quality Management System in place.

The U.S. side said that the CAA-NL seemed to depend on one inspector who was not qualified on all the aircraft operations he oversaw. This was true for both certification and continuing oversight.

The Dutch reacted before: four flight inspectors are qualified but not necessarily type rated on all types.

The U.S. side asked whether the CAA-NL required carriers to conduct practical demonstrations as part of the five-part AOC certification process. Annex 6 requires that a technically-qualified person in the CAA observes and approves the demonstration process.

The CAA-NL side said such a current regulatory requirement only exists prior to the issue of the initial AOC, because of the expense of a nonrevenue flight. All further 'demonstrations', as far as actual flights are involved, are done during revenue flights.

The EASA delegation said that it had made findings in a recent audit of CAA-NL and was addressing a corrective action plan with the CAA-NL. The subject of demonstration flights was a related item. (note: The CAA-NL corrective action plan is developed and accepted by EASA)

The U.S. side said that it considered the CAA-NL to lack sufficient qualified inspectors and thus did not seem to be in compliance with Annex 6. The U.S. side added that the critical element of qualified technical personnel is closely related to several of the other seven critical elements of an IASA safety oversight assessment. It side said that, although this discussion was limited to inspector qualifications, it was not confident that the CAA would do well in a full assessment conducted today.

The EASA delegation requested clarification as to what it meant by the lack of qualified inspectors aside from any premise that they should cover all type ratings.

The U.S. side said that, if the EU has a procedure to approve qualifications of operations inspectors in the absence of a type rating, it ought to be documented and regularized for member states. The documentation should apply both to qualifications and numbers of staff.

The EASA delegation acknowledged the need for a transparent system to demonstrate how inspectors were technically qualified in the case where they did not have a type rating in the aircraft whose operations they were certifying and overseeing.

The EASA and Dutch delegations said they would provide documentation of procedures to form the basis for standardization across Europe.

The US delegation said it would forgo an IASA assessment at this time in light of the NL-CAA's commitment to provide documentation from EASA regarding a standardized process of aviation safety oversight that is compliant with ICAO standards.

The FAA, CAA-NL, and EASA representatives appreciated the constructive and productive discussions. Both sides agreed to continue to share information related to the subject matter of these discussions and to other aviation safety issues of mutual interest. In particular, they agreed to discuss the issues further at the annual FAA-EASA consultations in October 2012.

John Barbagallo
Manager
FAA Flight Standards Service
International Programs and Policy

Edwin Griffioen
Managing Director
Netherlands Civil Aviation Authority

P.S.: This document describes the discussions between FAA, EASA and CAA-NL representatives. For the sack of clarification some additional notes have been added to the record.

ANNEX I

UNITED STATES DELEGATION

John Barbagallo
Manager, Flight Standards Service International Programs and Policy

Jacques Astre
Flight Standards Service International Programs and Policy Staff

Glenn Herpst
Flight Standards Service Representative to the the EC and EASA

Michael Jennison
Assistant Chief Counsel, International Affairs & Legal Policy Staff

ANNEX II

NETHERLANDS DELEGATION

Civil Aviation Authority of the Netherlands

Dr. Els C.M. van Schie
ILT Deputy Inspector-general

Edwin Griffioen
Managing Director

Jan Dirk Steenbergen
Director International Affairs

Hans de Jong
Special Advisor to the Director, Aviation Policy

Robert-Jan Venema
Senior Flight Inspector

Henk van den Berg
Senior Inspector

EUROPEAN UNION DELEGATION

European Aviation Safety Agency

Trevor Woods
Director Approvals and Standardisation

Thomas Mickler
Head of Standardisation Department

Georges Rebender
Standardisation Manager Air Operations

Giulio De Crescenzo
Standardisation Manager Flight Crew Licensing